



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2007 ASSEMBLY BILL 560**

February 12, 2008 – Offered by COMMITTEE ON ENERGY AND UTILITIES.

1     **AN ACT** *to amend* 943.20 (2) (d); and *to create* 134.405 and 895.09 of the  
2           statutes; **relating to:** regulating the purchase and sale of scrap metal and other  
3           metal items, the determination of property value of scrap metal for a theft  
4           conviction, creating a civil cause of action regarding scrap metal, and providing  
5           a penalty.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

6           **SECTION 1.** 134.405 of the statutes is created to read:

7           **134.405 Purchase and sale of scrap metal. (1) DEFINITIONS.** In this section:

8           (a) “Commercial account” means a commercial enterprise with which a scrap  
9           metal dealer maintains an ongoing and documented business relationship.

10          (b) “Commercial enterprise” means a corporation, partnership, limited liability  
11          company, business operated by an individual, association, state agency, political  
12          subdivision, or other government or business entity, including a scrap metal dealer.

1 (c) “Ferrous scrap” means scrap metal, other than scrap metal described in  
2 pars. (d) to (f), consisting primarily of iron or steel, including large manufactured  
3 articles that may contain other substances to be removed and sorted during normal  
4 operations of scrap metal dealers.

5 (d) “Metal article” means a manufactured item that consists of metal and is  
6 usable for its originally intended purpose without processing, repair, or alteration.

7 (e) “Nonferrous scrap” means scrap metal consisting primarily of metal other  
8 than iron or steel, but does not include any of the following:

9 1. Aluminum beverage cans.

10 2. Used household items.

11 3. Items removed from a structure during renovation or demolition.

12 4. Small quantities of nonferrous metals contained in large manufactured  
13 items.

14 (f) “Proprietary article” means any of the following:

15 1. A metal article stamped, engraved, stenciled, or otherwise marked to  
16 identify the article as the property of a governmental entity, telecommunications  
17 provider, public utility, cable operator, as defined in s. 66.0419 (2) (b), or an entity that  
18 produces, transmits, delivers, or furnishes electricity, or transportation,  
19 shipbuilding, ship repair, mining, or manufacturing company.

20 2. A copper conductor, bus bar, cable, or wire, whether stranded or solid.

21 3. An aluminum conductor, cable, or wire, whether stranded or solid.

22 4. A metal beer keg.

23 5. A manhole cover.

24 6. A metal grave marker, sculpture, plaque, or vase, if the item’s appearance  
25 suggests the item has been obtained from a cemetery.

1           7. A rail, switch component, spike, angle bar, tie plate, or bolt used to construct  
2 railroad track.

3           (g) “Scrap metal” means a manufactured item that consists of or contains  
4 metal; metal removed from or obtained by cutting, demolishing, or disassembling a  
5 building, structure, or manufactured item; or other metal that is no longer used for  
6 its original purpose and that can be processed for reuse in a mill, foundry, or other  
7 manufacturing facility.

8           (h) “Scrap metal dealer” means a person engaged in the business of buying or  
9 selling scrap metal.

10           **(2) PURCHASES OF FERROUS SCRAP.** A scrap metal dealer may purchase scrap  
11 metal other than nonferrous scrap, a metal article, or a proprietary article from any  
12 person over the age of 18.

13           **(3) PURCHASES OF NONFERROUS SCRAP, METAL ARTICLES, PROPRIETARY ARTICLES.** (a)  
14 Subject to par. (b), a scrap metal dealer may purchase nonferrous scrap, metal  
15 articles, or proprietary articles from any person who is over the age of 18 if all of the  
16 following apply:

17           1. If the seller of nonferrous scrap, metal articles, or proprietary articles is an  
18 individual, at the time of the sale, the seller provides to the scrap metal dealer the  
19 seller’s motor vehicle operator’s license or other government-issued, current  
20 photographic identification that includes the seller’s full name, current address, date  
21 of birth, and recognized identification number. If the seller is not an individual, at  
22 the time of the sale, the individual who delivers the seller’s nonferrous scrap, metal  
23 articles, or property articles provides to the dealer the deliverer’s motor vehicle  
24 operator’s license or other government-issued, current photographic identification

1 that includes the deliverer's full name, current address, date of birth, and recognized  
2 identification number.

3 2. The scrap metal dealer records and maintains at the scrap metal dealer's  
4 place of business the seller's or deliverer's identification information described in  
5 subd. 1., the time and date of the purchase, the number and state of issuance of the  
6 license plate on the seller's or deliverer's vehicle, and a description of the items  
7 received, including all of the following:

8 a. The weight of the scrap or articles.

9 b. Whether the scrap or articles consist of bars, cable, ingots, rods, tubing, wire,  
10 wire scraps, clamps, connectors, pipes, or other appurtenances, or some combination  
11 of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps, connectors, pipes, or  
12 other appurtenances.

13 c. A description of any numbers, letters, or other identifying symbols stamped,  
14 engraved, stenciled or otherwise marked on the scrap or articles.

15 d. Whether the scrap or articles consist of a rail, switch component, spike, angle  
16 bar, tie plate, or bolt used to construct railroad track.

17 3. The scrap metal dealer obtains photographic or video images showing the  
18 vehicle's license plate and a view of the vehicle sufficient to identify the vehicle.

19 4. With respect to a purchase of nonferrous scrap or a metal article the scrap  
20 metal dealer obtains the seller's signed declaration that the seller is the owner of the  
21 items being sold.

22 5. With respect to a purchase of a proprietary article, one of the following  
23 applies:

1           a. The scrap metal dealer receives from the seller documentation, such as a bill  
2 of sale, receipt, letter of authorization, or similar evidence, that establishes that the  
3 seller lawfully possesses the proprietary article.

4           b. The scrap metal dealer documents that the scrap metal dealer has made a  
5 diligent inquiry into whether the person selling the proprietary article has a legal  
6 right to do so, and, not later than one business day after purchasing the proprietary  
7 article, submits a report to a local law enforcement department describing the  
8 proprietary article and submits a copy of the seller's or deliverer's identifying  
9 information under subd. 1.

10           (b) This subsection does not apply to purchases of nonferrous scrap, metal  
11 articles, or proprietary articles by a scrap metal dealer from a commercial account,  
12 if the scrap metal dealer creates and maintains a record of its purchases from the  
13 commercial account that includes all of the following:

14           1. The full name of the commercial account.

15           2. The business address and telephone number of the commercial account.

16           3. The full names of persons employed by the commercial account who are  
17 authorized to deliver nonferrous scrap, metal articles, or proprietary articles to the  
18 scrap metal dealer.

19           4. The time, date, and value of each of the scrap metal dealer's purchases from  
20 the commercial account.

21           5. A description of the predominant types of nonferrous scrap, metal articles,  
22 or proprietary articles the scrap metal dealer has purchased from the commercial  
23 account.

24           **(4) OTHER PROVISIONS.** (a) A scrap metal dealer shall make the records required  
25 under sub. (3) (a) 2. to 5. and (b) available to a law enforcement officer or an agent

1 of a governmental entity who presents the agent’s credentials at the scrap metal  
2 dealer’s place of business during business hours.

3 (b) A scrap metal dealer shall maintain the records required under sub. (3) (a)  
4 2., 4., and 5. and (b) 3. to 5. for not less than 2 years after recording it. A scrap metal  
5 dealer shall maintain an image required under sub. (3) (a) 3. for not less than 3  
6 months after obtaining the image. A scrap metal dealer shall maintain the records  
7 required under sub. (3) (b) 1. and 2. regarding a commercial account for not less than  
8 2 years after the dealer’s most recent transaction with the commercial account.

9 (c) A law enforcement officer of a city, village, town, or county in which a scrap  
10 metal dealer conducts business may request that all scrap metal dealers in the city,  
11 village, town, or county furnish reports of all purchases of nonferrous scrap, metal  
12 articles, and proprietary articles. A scrap metal dealer shall comply with a request  
13 under this paragraph by submitting to the requesting law enforcement officer a  
14 report of each purchase of nonferrous scrap, metal articles, and proprietary articles  
15 not later than the business day following the purchase, including each seller’s or  
16 deliverer’s name, date of birth, identification number, and address, and the number  
17 and state of issuance of the license plate on each seller’s or deliverer’s vehicle.

18 **(5) PENALTIES.** (a) 1. A scrap metal dealer who knowingly violates this section  
19 and who has not knowingly committed a previous violation of this section is subject  
20 to a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both.

21 2. A scrap metal dealer who knowingly violates this section and who has  
22 knowingly committed one previous violation of this section is subject to a fine not to  
23 exceed \$10,000 or imprisonment not to exceed 9 months, or both.

1           3. A scrap metal dealer who knowingly violates this section and who has  
2 knowingly committed more than one previous violation of this section is guilty of a  
3 Class I felony.

4           (b) Each day on which a scrap metal dealer knowingly violates this section  
5 constitutes a separate violation.

6           **(6) ORDINANCE.** (a) A county, town, city, or village may enact an ordinance  
7 governing the sale and purchase of scrap metal if the ordinance is not more stringent  
8 than this section, except that a 1st class city may enact an ordinance that is more  
9 stringent than this section.

10           (b) Notwithstanding par. (a), a city, village, town, or county may enact an  
11 ordinance that requires scrap metal dealers to submit reports to a law enforcement  
12 officer under sub. (4) (c) in an electronic format.

13           **SECTION 2.** 895.09 of the statutes is created to read:

14           **895.09 Scrap metal theft; civil liability.** (1) Any owner of nonferrous scrap,  
15 a metal article, or a proprietary article, as those terms are defined in s. 134.405 (1),  
16 who incurs injury or loss as a result of a violation of s. 134.405 or s. 943.20 may bring  
17 a civil action against the person who committed the violation.

18           **(2)** If the person who incurs the loss prevails against a person who committed  
19 the violation, the court shall grant the prevailing party all of the following:

20           (a) Actual damages.

21           (b) Any lost profits that are attributable to the violation and that were not taken  
22 into account in determining the amount of actual damages under par. (a).

23           (c) Notwithstanding the limitations under s. 799.25 or 814.04, costs,  
24 disbursements, and reasonable attorney fees.

